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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,132	08/27/2001	Jessica Ash Warring	Natus-EC	5880

7590  
Daniel P. Maguire  
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Davis, CA 95616

03/24/2003

EXAMINER

LOCKETT, KIMBERLY R

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/941,132

Applicant(s)

WARRING ET AL.

Examiner

Kim R. Lockett

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 and 26 is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 13, 15-23, 25, and 27-29 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 9-12 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-13 are objected to because of the following informalities: The term "sa" appears to be misspelled. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. Claims 1, 3-5, 15-21, 25, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheehan et al in view of Claes.

Sheehan et al discloses the use of an ear coupler comprising an annular wall, a bottom wall integral with the annular wall; an internal chamber formed by the bottom wall and the side wall (see figure 1), a port (180) in the side wall, and a flexible flange (see figure 26) from the annular wall. Sheehan also discloses the use of ribs in the side wall (see figure 2) and walls that are transparent. The flange as taught by Sheehan is coated with an adhesive (60). Sheehan also discloses that transducers used in port is well known in the art (column 13-lines 35-40). Sheehan also allows for a target to aid in placing the coupler over the user's ear (see figures 12 and 14). Sheehan also discloses the use of a grid pattern (see figure 13). Sheehan does not disclose the use of a highly flexible flange.

Claes discloses the use of a one-piece ear coupler with a highly flexible flange (13) that forms a sidewall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device as taught by Sheehan with the highly flexible

flange as disclosed by Claes in order to provide in order to enable the user to use and remove the device without damage.

3. Claims 2, 21, 23, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheehan et al in view of Claes and Lindgren et al.

Sheehan and Claes do not disclose the transparent coupler.

Lindgren et al discloses the use of a transparent coupler.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device as taught by Sheehan with the flexibility as disclosed by Claes and the transparent coupler as disclosed by Lindgren et al in order to confirm the placement of the coupler.

4. Claims 13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheehan et al in view of Claes and Augustine et al.

Sheehan does not disclose the use of a flexible flange with a tab.

Augustine discloses the use the use of a flexible flange (25) with a tab (26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device as taught by Sheehan with the tab as disclosed by Augustine et al in order to efficiently place a hearing device.

5. Claims 6, 7, 9-12, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 24 and 26 are allowed.

***Response to Arguments***

7. Applicant's arguments filed 1/13/02 have been fully considered but they are not persuasive. The applicant argues the lack of a highly flexible material and the lack of tabs. These arguments have been considered but are moot in view of the new grounds of rejection. The applicant argues that the Sheehan reference has one embodiment where the baffle is bent to form a flange but slits are not shown. However the baffle (10) as the applicant asserts in figure 24 is element 10. There are several figures in Sheehan, which disclose the baffle 10 having slits (see figure 17b). Furthermore, Sheehan clearly describes his flange in column 12, lines 57-67.

8. Any inquiry of a **general nature or relating to the status of this application or filed papers** should be directed to the **Group receptionist whose telephone number is (703) 308-0956**.

Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center located at Crystal Plaza 4. The faxing of such papers must conform with the notice

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published in the Official Gazette, 1096 O.G. 30 (November 15,1989). The Group 2800 CP 4 Fax Center number is (703) 308-77(22 or 24). Fax numbers that provide an auto-reply fax receipt are: for before finals (703) 872-9318 and after finals (703) 872-9319.

For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Patents Assistance Center (PAC)** whose telephone number is **800-786-9199**. Assistance is also available on the Internet at [www.uspto.gov](http://www.uspto.gov).

For requesting copies of Cited Art, Office Actions or the like, or General Problem solving, calls should be directed to the TC 2800 Customer Service Office whose telephone number is 703-306-3329 or by fax at 703-306-5515.

Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Kim Lockett** whose telephone number is **(703) 308-7615**. The examiner can normally be reached on Monday through Thursday from 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi, can be reached on (703) 308-3370.

  
**Kim Lockett**  
**Patent Examiner**  
**Art Unit 2837**